

Date of Meeting: October 20, 2010

**BOARD OF SUPERVISORS
TRANSPORTATION AND LAND USE COMMITTEE
ACTION ITEM**

4

SUBJECT: Riparian Buffer Incentives

ELECTION DISTRICT: Countywide

CRITICAL ACTION DATE: AT THE PLEASURE OF THE BOARD

STAFF CONTACTS: Glen Rubis/Terrance Wharton (Director),
Department of Building and Development

RECOMMENDATIONS:

Staff: Staff recommends that the Transportation and Land Use Committee (TLUC) continue discussion of potential incentive programs at the next Committee meeting, and that the Committee identify additional research that staff can undertake for these types of programs.

BACKGROUND:

At the October 5, 2010, Business Meeting, the Board moved that the Committee explore potential incentives to achieve effective forested riparian buffers along Loudoun County perennial streams. This effort is intended to examine permanent conservation easements and efforts that complement existing state and federal buffer initiatives. Further, it would assist landowners in implementing the draft Chesapeake Bay Preservation Act amendments and voluntarily reforesting riparian buffers where not otherwise required. The following incentives have been identified to date:

SUMMARY OF INCENTIVES:

- A. As part of the June 15, 2010 Board of Supervisors Comment Matrix, Supervisor Kurtz inquired about the following potential incentives to establish or preserve riparian buffers:
1. **Tax Exemption** - Provision of a full or partial tax exemption for riparian areas would require an amendment to the County tax code. Landowners would be required to place the land within the riparian buffer in a perpetual conservation easement to qualify for the exemption, which is not currently proposed under the draft Chesapeake Bay Preservation Act amendments. Initial assessment of this potential option identified the following issues:

- a) To create the conservation easement, the landowner would have to employ an engineer/surveyor to prepare a plat depicting the metes and bounds of the easement on the parcel and prepare a Deed of Open Space Easement (from a County-prepared template). The Deed and Plat would then be submitted for review.
 - b) Initial consultation with the County Assessor's office indicated that the costs to administer such a program would likely outweigh the benefit for the limited number of landowners expected to enroll.
2. **Tax Abatement** - The Board could adopt an amendment to the County tax code to provide for a tax abatement to offset the cost of voluntarily planting a riparian buffer of a designated effective width, adjacent to a specific type of stream (e.g., perennial), in accordance with adopted planting specifications. For example, to help offset planting costs, the County could consider reducing the taxable land value and allowing the property owner to be subject to a lower tax payment for a time period designated by the County. The abatement would provide an incentive to plant the buffer in areas that are not currently forested, allowing the property owner to enhance the property, while receiving a tax incentive to offset the project cost.
3. **Flexible Zoning Requirements** – The Board could amend the Zoning Ordinance to provide additional flexibility in regard to zoning regulations such as required setbacks and building height restrictions in order to facilitate the establishment and reforestation of riparian buffers. It should be noted that the draft Chesapeake Bay Preservation Act amendments include provisions for exceptions that would allow development within the Resource Protection Area ("RPA"), provided certain criteria are satisfied. In addition, an applicant could request a variance of the Zoning Ordinance requirements from the Board of Zoning Appeals in cases where such requirements, along with the RPA, would restrict development on a parcel. An applicant could also request Zoning Ordinance modifications through the legislative process in conjunction with applications within Planned Development Zoning Districts.
- B. The Board may also want to consider supplementing the following, existing federal and state programs, which currently incentivize riparian buffer planting on agricultural land:
1. **Virginia Agricultural BMP Cost-Share Program** – The Loudoun Soil and Water Conservation District ("SWCD") administers a State-funded cost-share program to promote the implementation of agricultural Best Management Practices ("BMPs") to protect water quality. In order to be considered agricultural land, the property must consist of a minimum of 5 contiguous acres and there must be an annual minimum of more than \$1,000 of agricultural products being produced, sold, or both, from the applicant's agricultural land.

The most an individual may receive is \$50,000/applicant/year. In any case, the state cost-share payment, combined with federal payments, will not exceed 75 percent of the total eligible costs.

- a. The "Woodland Buffer Filter Area" cost-share practice provides funding for buffer reforestation of cropland and pastureland adjacent to streams. Cost-share is provided via a one-time incentive payment of \$200/acre for pine planting and \$650/acre for hardwood

planting for bare root seedlings. The Virginia Department of Forestry provides technical oversight and specifies planting density. A minimum width of 35 feet from the edge of the stream bank, or up to one-third of the floodplain, not to exceed 100 feet is required. In order to obtain funding, the landowner must agree to a 10-year contract period, after which the planting could be altered or removed. The Loudoun SWCD provides cost-share for an average of one of these projects each year.

- b. The “Continuous Conservation Initiative Forested Riparian Buffer” cost-share practice provides a single payment of \$100 per acre paid up front for the maintenance and protection of a forested riparian buffer for the 5-year lifespan. This is a new practice added in 2010 to encourage the preservation of riparian plantings beyond the contract expiration date. A minimum width of 35 feet from the edge of the stream bank, or up to one-third of the floodplain, not to exceed 100 feet is required. The minimum Chesapeake Bay Preservation Act, or any other locally required buffer, is not eligible for cost-share. This program also provides a payment of \$1 per foot of fence. Given the priority for establishing forest cover on cropland and pastureland, funding is less likely to be allocated for this practice. The Loudoun SWCD has not received any applications for funding for this practice to date.

- 2. **Conservation Reserve Enhancement Program (“CREP”)** – This program is administered by the Farm Service Agency (“FSA”) with technical support from the Natural Resources Conservation Service (“NRCS”) and the Loudoun SWCD. It provides 50 percent Federal cost-share funding and 25 percent State cost-share funding for the installation of conservation practices, such as riparian planting, livestock exclusion fencing, watering systems, and hardened stream accesses. Conversion of cropland and pastureland adjacent to streams to forested riparian area is eligible for funding. Planting is required at a rate of 110 tublings (seedling with a plastic tree shelter) per acre at a minimum width of 1/3 of the floodplain or 35 feet, whichever is greater, up to a maximum of 300 feet. A Federal rental payment of approximately \$80/acre/year is provided for a contract period of 10-15 years (selected by the landowner). A Federal signing incentive payment (“SIP”) of \$10/acre/year and a Federal practice incentive payment (“PIP”) of 40 percent of the eligible cost for all conservation practices are also provided. The State also provides a \$5/acre/year rental payment for maintenance.

Following the installation of the conservation practices, the landowner has the option of recording a permanent open space easement to protect the buffer in perpetuity in exchange for an additional \$1,000 per acre, which ensures that the buffer will remain planted beyond the 10-15 year contract period. The easement also allows the Virginia Department of Conservation and Recreation (“DCR”) to monitor the riparian buffer on an annual basis to ensure that the easement is being implemented and to ensure that future landowners honor the conditions of the easement. None of the Loudoun landowners that have participated in CREP have opted to record the CREP easement to date. However, some landowners have recorded other types of conservation easements on their property (e.g. stream and wetland mitigation projects).

The first CREP applications in Loudoun were approved in 2001. A total of approximately 100 acres of forested riparian buffers has been established since that time, with an average of

1 to 2 applications per year in Loudoun. CREP applications will be accepted by FSA until December 31, 2011. The program may be renewed if it is included and funded under the new Federal Farm Bill.

3. **State Income Tax Credit** – Agricultural landowners that participate in the Virginia Agricultural BMP Cost-Share Program and/or CREP are also eligible for a 25 percent state income tax credit for out-of-pocket expenses. The tax credit is an added incentive given the fact that cost-share funding is taxable income.
- C. Some specific options available to the Board for supplementing the above-referenced, existing agricultural incentive programs, include the following:
1. **Supplemental Funding to the Loudoun SWCD** – The Board could provide additional funding to the Loudoun SWCD to supplement the funding they currently receive from the State to administer the Virginia Agricultural BMP Cost-Share Program. The Loudoun SWCD has already received applications for up to 90 percent of the State funding allocated for the current fiscal year. Supplemental funding provided by the County could be used to reimburse landowners for expenses that are not covered under current cost-share allocations (e.g., 25 percent of the project cost) or to allow additional applications to be approved at the current cost-share rate. The State cost-share allocation to the Loudoun SWCD for this fiscal year (July 1, 2010 – June 30, 2011) is \$178,000. The State funding provided to the Loudoun SWCD varies from year to year and was over \$400,000 in the previous fiscal year. Supplemental funding from the County would help stabilize the annual funding level allocated for cost-share. The County could also work with the Loudoun SWCD and FSA on developing a similar program to supplement the rental payments provided under the Federal CREP program.
 2. **Supplemental Funding for Specific Cost-Share Practices** – The Board may want to consider providing funding to support the implementation of certain, specific agricultural practices not otherwise eligible for cost-share. For example, some horse operations (e.g., boarding operations) may not be eligible for cost-share funding under the Virginia Agricultural BMP Program. The County could dedicate funding to implement conservation practices, such as livestock exclusion (fencing), watering systems, and riparian planting for those operations.
- D. Due to the fact that many of the programs described above are not applicable to urban land, the Board may also want to consider the following incentives to encourage riparian planting on urban land.
1. **State Urban Cost-Share Program** – The Board may elect to recommend that DCR establish a cost-share program for urban projects similar to the agricultural cost-share program, which could support funding for small urban riparian buffer projects.
 2. **Albemarle County Stream Buffer Restoration Initiative** – In 2006, Albemarle County was awarded a Water Quality Improvement Fund Grant in the amount of \$159,000 to reimburse landowners 50 percent of the cost of reforestation non-agricultural riparian land within impaired stream watersheds. The “Quick Fact Sheet” (Attachment #1) provides additional

information related to the project. Implementation of the grant resulted in cost-shared riparian buffer planting on over 25 acres of land located within 200 feet of streams. The Board may direct Staff to pursue similar grant opportunities in order to cost-share riparian planting on urban land.

- E. Staff is in the process of conducting an Internet search for “incentives for achieving riparian buffers.” Results to date indicate that other jurisdictions have established programs similar to those summarized above. For example, the “Maryland Agricultural Cost-Share Program” provides up to 87.5 percent of the cost of conservation practices to a maximum of \$20,000. The “Maryland State Buffer Incentive Program” provides a one-time payment of \$300 per acre for riparian buffer planting, in accordance with the following specifications: 1) 1-acre minimum to 50-acre maximum planting area; 2) a 10-year contract period; 3) a minimum 50-foot planting width; 4) payment is made after the first year only if 65 percent of the trees survive; 5) Christmas trees and orchard trees are not eligible for payment. Staff will continue the Internet search for incentives and will provide an update on any additional incentive programs identified at the Committee meeting.

For any incentives that the County pursues, Staff recommends that the Board consider identifying specifications related to the buffer width to be planted, the type of plantings required, and the contract period, with a focus on ensuring that the water quality benefits of the associated project are maintained.

FISCAL IMPACT:

The specific fiscal impact to the County cannot be calculated at this time. Should these types of incentive programs be considered further by the Board of Supervisors, a detailed fiscal analysis would take place to determine the impact on revenues and/or expenditures.

SUGGESTED MOTIONS:

1. I move that the Transportation Land Use Committee continue the riparian buffer incentives discussion during the November 17, 2010, Transportation Land Use Committee meeting.

OR

2. I move an alternate motion.

ATTACHMENTS:

1. Albemarle County “Quick Fact Sheet”

Albemarle County Stream Buffer Restoration Initiative Quick Fact Sheet

What is it?

A temporary program to help fund the cost of planting streamside vegetative buffers.

Who is eligible?

Owners of non-agricultural riparian land in impaired watersheds within Albemarle County. See map on reverse side for the location of impaired watersheds in the County.

How much money can you get?

50% of the cost of labor and materials for new plantings

How do you get the money?

Landowners will be reimbursed 50% of the cost, based upon receipts and documentation of labor provided by the landowner or someone they paid

What do you have to plant?

One of the following:

327 large stems/acre

600 seedlings/acre with tree tubes and mats

1,210 seedlings/acre without tree tubes and mats

(Plant lists will be provided to assist in plant selection)

When do you plant?

Spring 2007, 2008, or 2009 (March 1st through May 30th)

Fall 2007 or 2008 (September 1st through November 15th)

Where can I buy plants?

Virginia Department of Forestry

Any local landscape and nursery business

Who do I contact for more information or to apply?

Tamara Ambler, Natural Resources Manager

Albemarle County Community Development Department

(434) 296-5832 extension 3264

tambler@albemarle.org

This Albemarle County project received funding from the Virginia Water Quality Improvement Fund provided by the Department of Conservation and Recreation (DCR) via grant number WQIA-2006-05

